

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 DANNY JEROME YOUNG,

11 Plaintiff,

No. CIV S-03-2225 GEB KJM P

12 vs.

13 J. PULSIPHER, et al.,

14 Defendants.

ORDER

15 \_\_\_\_\_/  
16 Before the Court is Plaintiff's motion to compel discovery filed September 12,  
17 2005. See Docket number 27. Plaintiff avers that he has served two sets of discovery on  
18 defendants, but that they only responded to the second set and as to the second set, failed to fully  
19 answer.

20 On September 27, 2005, defendants filed an opposition to the motion, explaining  
21 that plaintiff is correct in asserting non-response as to the first set and further explaining that  
22 defense counsel received the discovery, sought assistance in responding to it because he was  
23 scheduled for surgery beginning July 15, 2005, and would not be back in the office for an  
24 extended period of time. Counsel further explained that during his recovery from surgery,  
25 serious complications arose involving blood clots and a pulmonary embolism that required  
26 further hospitalization and further absence from his office and thus, attendance to this case and

1 others assigned him. Finally, counsel explained that he only returned to his office, part-time, on  
2 September 19, 2005, and was apprised about the failure to respond to the first set of discovery.

3 As to the first set of discovery, defendants seek leave, for good cause shown, that  
4 they be permitted to respond *nunc pro tunc* to the date responses were originally due.

5 The court concludes that good cause does exist for defendants' failure to answer  
6 the first set of discovery, and so will grant defendants' request for an extension of time *nunc pro*  
7 *tunc*. The merits of plaintiff's motion to compel will be addressed separately, in an order to  
8 follow.

9 Accordingly, it is hereby ORDERED:

10 1. Defendants are granted leave to serve their responses to plaintiff's first set of  
11 discovery on or before October 17, 2005; such responses shall be deemed timely filed *nunc pro*  
12 *tunc*.

13 2. Any motion to compel further discovery based on the responses to the first set  
14 only shall be filed on or before November 7, 2005, with opposition due two weeks after the  
15 motion is filed. Discovery shall otherwise be deemed closed effective September 9, 2005, as  
16 provided by the court's May 12, 2005, scheduling order.

17 3. The time for filing pretrial motions is extended to December 16, 2005.

18 DATED: October 3, 2005.

19  
20   
21 UNITED STATES MAGISTRATE JUDGE  
22  
23  
24